

HONORABLE SALVADOR MENDOZA, JR.

MICHAEL E. McFARLAND, JR., #23000
Evans, Craven & Lackie, P.S.
818 W. Riverside, Suite 250
Spokane, WA 99201-0910
(509) 455-5200; fax (509) 455-3632
Attorneys for Defendants

IN UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WASHINGTON

CHRISTINE MIKALSON, an individual,

Plaintiff,

vs.

WHITMAN COUNTY, a Washington
County; EUNICE COKER, an individual,

Defendants.

Case No. 2:18-cv-00141- SMJ

STIPULATED MOTION TO
CONTINUE TRIAL DATE AND
AMEND CASE SCHEDULING
ORDER

Note on Motion Calendar:

Date: January 22, 2019

Time: 6:30 p.m.

Without Oral Argument

I. RELIEF REQUESTED

The parties respectfully request that the Court continue the trial date in the matter, currently set for July 29, 2019, for at least six months to a date in 2020 no earlier than January 27, 2020. All parties to this action have agreed to a continuance. This motion is based upon the records and files herein and the

STIPULATED MOTION TO CONTINUE TRIAL DATE
AND AMEND SCHEDULING ORDER - page 1

Evans, Craven & Lackie, P.S.
818 W. Riverside, Suite 250
Spokane, WA 99201-0910
(509) 455-5200; fax (509) 455-3632

1 accompanying declaration of Michael McFarland.

2 3 **II. FACTUAL BACKGROUND**

4 Plaintiff filed her Complaint on May 5, 2018 ECF 1. On June 28, 2018,
5 the Court held a scheduling conference, at which the Court asked counsel for the
6 parties about the prospect of early mediation. The Court directed the parties to file
7 a joint status report no later than July 12, 2018 advising the Court about the
8 prospects of early mediation. ECF 11.

9
10 On July 2, 2018, the Court entered a Scheduling Order, setting trial to
11 commence on July 29, 2019. In addition to the July 12, 2018 deadline to file a
12 status report regarding early mediation, the Court set a deadline of 90 days prior
13 to trial to engage in a private mediation. ECF 12.

14
15 On July 11, 2018, the parties submitted a Joint Statement on Early
16 Mediation notifying the Court that both parties would be receptive to mediation if
17 appropriate, but that Defendants needed time to conduct some discovery to
18 determine whether mediation would be appropriate. ECF 13.

19
20 On August 1, 2018, the parties exchanged their initial disclosures. On
21 December 14, 2018, Defendants served Plaintiff with requests for production of
22 documents.

1 Ms. Mikalson's deposition commenced on December 19, 2018. Shortly
2 before Ms. Mikalson's deposition, counsel for Ms. Mikalson learned that she had
3 two boxes of documents relating to her claims in this matter that are responsive to
4 Defendant's requests for production of documents. Counsel was unable to get
5 those documents copied and produced to defense counsel prior to Ms. Mikalson's
6 deposition.
7
8
9

10 During Ms. Mikalson's deposition, she was unable to answer a number of
11 questions – or at least provide a number of specifics – without reference to her
12 documents. In addition, after a few hours of testimony, Ms. Mikalson, who has a
13 number of significant health issues, was unable to continue with her testimony.
14 As a result of Ms. Mikalson becoming fatigued, and as a result of the need for
15 defense counsel to obtain Ms. Mikalson's documents, the parties agreed to
16 adjourn Ms. Mikalson's deposition and continue it at a later date.
17
18
19
20

21 Ms. Mikalson has health issues which may require that the completion of
22 her deposition be conducted over more than one day. In addition, counsel for Ms.
23 Mikalson wants to depose Defendant Eunice Coker and Whitman County. As a
24 result of the schedules of the parties and counsel, the parties have determined that
25 this discovery cannot be completed by the current discovery cutoff of February
26
27
28
29

22, 2019. In addition, the parties believe that settlement discussions and/or mediation now before additional discovery is completed could result in an early resolution of this matter without incurring the costs of further discovery.

III. LAW/ARGUMENT

The parties are in agreement that after Plaintiff's additional documents have been produced, but before any additional discovery (i.e., the depositions of Ms. Mikalson, Ms. Coker and Whitman County), mediation would be appropriate. However, given the parties' respective calendars, and the availability of mediators, a mediation likely cannot get scheduled until March or April 2019.

The parties are therefore respectfully requesting that the Court strike the current Scheduling Order and re-set trial and all other deadlines at least six months out from the current trial date and deadlines. This would allow the parties the time necessary to explore settlement (with or without a mediator), without spending time and expense on other activities (i.e., motion practice and/or trial preparation). The parties do not want to incur additional costs and fees between now and mediation, and continuing the trial date and scheduling deadlines gives the parties the ability to focus on possible resolution of this case.

The Court has broad discretion to modify a scheduling order and continue

a trial date. *Johnson*, at 607; *Miller v. Safeco Title Ins. Co.*, 758 F.2d 364, 369 (9th Cir. 1985). See *King v. State of California*, 784 F.2d 910, 912 (9th Cir. 1986). An order extending the discovery deadline and continuing the trial date is appropriate pursuant to Fed. R. Civ. P. 16 and supported by good cause for reasons set forth above so that the parties can explore settlement, including mediation, prior to engaging in costly discovery. The parties respectfully submit that it is in the parties' collective best interests, including their financial interests, to continue the discovery cutoff and the trial date so that the parties can focus on a potential resolution of this matter without the concern of other deadlines.

IV. CONCLUSION

The parties respectfully request that this Court grant this Stipulated Motion to Continue the Trial Date and amend the case scheduling order.

DATED this 21st day of December, 2018.

EVANS, CRAVEN & LACKIE, P.S.

By: s/ Michael E. McFarland, Jr.
MICHAEL E. McFARLAND, JR., #23000
SEAN E. HARKINS, #51113
Attorneys for Defendants

VANGUARD LAW
By: s/ Spencer Nathan Thal
SPENCER NATHAN THAL, #20074
Attorney for Plaintiff

STIPULATED MOTION TO CONTINUE TRIAL DATE
AND AMEND SCHEDULING ORDER - page 5

Evans, Craven & Lackie, P.S.
818 W. Riverside, Suite 250
Spokane, WA 99201-0910
(509) 455-5200; fax (509) 455-3632

CERTIFICATE OF SERVICE

I hereby certify that on December 21, 2018, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following:

Counsel for Plaintiff

Spencer Nathan Thal

Vanguard Law

P.O. Box 939

Poulsbo, WA 98370

Email: spencer@vanguardlawfirm.com

s/ Michael E. McFarland, Jr.
MICHAEL E. McFARLAND, #23000
Attorney for Defendants
Evans, Craven & Lackie, P.S.
818 W. Riverside Ave., Suite 250
Spokane, Washington 99201
(509) 455-5200
(509) 455-3632 Facsimile
MMcFarland@ecl-law.com

STIPULATED MOTION TO CONTINUE TRIAL DATE
AND AMEND SCHEDULING ORDER - page 6

Evans, Craven & Lackie, P.S.
818 W. Riverside, Suite 250
Spokane, WA 99201-0910
(509) 455-5200; fax (509) 455-3632